

In answer to question 3, it is reasonable to allow a list to be maintained by the county commission comprised of those clergymen and preachers of the gospel who may wish beforehand to identify themselves and establish their exempt status so they may make use of the exemption conveniently and without unnecessary procedures at the toll gate. However, such preregistration may not be required to enable any clergyman or preacher of the gospel to claim his exemption under the statute. The scope of the statute applies to "any clergyman or preacher of the gospel" over "all toll bridges and ferries of this state", and any list compiled by the county for the mutual benefit and convenience of the county and the exempted class of persons could not hope to list all those who fall into that classification. (Emphasis supplied.)

073-470—December 18, 1973

COUNTY OFFICIALS

COMPENSATION—FEE OR BUDGET STATUS OF TAX ASSESSOR AND TAX COLLECTOR

To: Christopher C. Ford, Lake County Attorney, Tavares

Prepared by: William R. Cave, Assistant Attorney General, and Daniel C. Brown,
Legal Intern

QUESTION:

Does the board of county commissioners have the authority to unilaterally waive the fees provided for the county assessor and tax collector in §192.091, F. S. 1971?

SUMMARY:

Fees provided for the county assessor or tax collector under §192.091, F. S., may be waived by the board of county commissioners only with the concurrence of the official involved. Section 145.022, F. S. However, as of January 1, 1974, the tax assessor will become a budget officer, no longer entitled to receive the fees presently available to him under §192.091, F. S. 1971, as amended by §§8 and 16, Ch. 73-172, Laws of Florida.

Your question is answered in the negative as to the tax collector.

Your question as to the tax assessor is also answered in the negative, but with the qualifications discussed below.

Section 192.091, F. S., provides that tax collectors are entitled to certain fees therein prescribed for the performance of their duties to various political subdivisions and taxing districts. However, §145.022(1), F. S., as amended by Ch. 73-172, Laws of Florida, provides the method whereby those fees may be waived. Section 145.022 provides:

(1) Any board of county commissioners, *with the concurrence of the county official involved*, shall by resolution guarantee and appropriate a salary to the county official, in an amount not to exceed that specified in this chapter, if all fees collected by such official are turned over to the board of county commissioners. Copies of the resolution adopted shall be filed with the department of banking and finance and the auditor general. (Emphasis supplied.)

It is thus clear that the procedure authorized in §145.022, *supra*, is an alternative mode of compensation only. Attorney General Opinion 069-83. The

board of county commissioners is empowered to guarantee a fixed salary to the collector upon his delivery of all fees collected to the county, but the commissioners are so empowered only with the concurrence of the collector. The importance of the official's concurrence in any waiver of fees is underscored by the permanence of such an arrangement. Once such a plan is initiated, it cannot be revoked or rescinded by either party without express legislative authority. Attorney General Opinion 071-363. It is my opinion that the tax collector, if he so elects, need *not* concur in any action of a board of county commissioners purporting to eliminate his fees; rather, he is entitled to continue operations as a fee officer, receiving his salary from fees collected and utilizing the monthly advancements procedure with annual accounting outlined in §192.102, F. S. However, if he elects to remain a fee officer, he must continue to pay over excess fees at the close of the fiscal year as required by law. Chapter 73-349, Laws of Florida [§§218.35 and 218.36, F. S.]; *see also* AGO's 073-281 and 073-415.

As to the tax collector, your question is answered accordingly. It should be noted that the same result would obtain with respect to a proposed waiver of fees by any officer described in §145.14, F. S., inasmuch as the language of that section is substantially the same as that of §145.022, *supra*.

With reference to the tax assessor, it should be noted that Ch. 73-172, Laws of Florida, amends both §§192.091 and 145.022, *supra*, as they relate to the funding of his operations. By §8 of Ch. 73-172, the tax assessor is transformed from a fee officer to a budget officer under the format therein provided. As such, the assessor will no longer be entitled to the fees prescribed in §192.091, as of January 1, 1974. Section 24(4), Ch. 73-172, *supra*. As of that date, no provision allowing for the elimination of the assessor's fees will be necessary. This judgment is reflected in §16, Ch. 73-172, which amends §145.022 to exclude county assessors, effective January 1, 1974.

073-471—December 18, 1973

TAXATION

COMPENSATION OF TAX ASSESSOR AND TAX COLLECTOR FOR SERVICES RENDERED TO MUNICIPALITIES

To: Howard W. Duke, Belleair Town Attorney, Clearwater

Prepared by: William R. Cave, Assistant Attorney General, and Daniel C. Brown, Legal Intern

QUESTION:

Does the tax assessor or the tax collector of Pinellas County have the authority to receive payment from municipalities for their services in connection with assessing and collecting municipal taxes in view of the repeal of §167.437, F. S., by Ch. 72-368, Laws of Florida [effective July 1, 1973]?

SUMMARY:

The repeal of §167.437, F. S., did not affect the authority of the assessor or the tax collector of Pinellas County to receive compensation to their offices from municipalities located in Pinellas County. Their authority to do so derives from Ch. 25518, 1949, Laws of Florida, as amended by Ch. 61-1170, Laws of Florida, which acts remained unaffected both by the enactment and by the repeal of §167.437. However, since Ch. 25518 was transformed from a general law of local application to a county ordinance by Ch. 71-29, Laws of Florida, the county commissioners of Pinellas County have the power